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SPEAKER OF THE HOUSE

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Testimony of Speaker Rachel Talbot Ross supporting
LD 1970, An Act to Enact the Maine Indian Child Welfare Act
Before the Joint Standing Committee on the Judiciary

Senator Carney, Representative Moonen and esteemed members of the Joint Standing Committee on Judiciary, I am Rachel Talbot Ross I represent House District 118 which is much of the Portland peninsula I also have the distinct honor of serving as the Maine Speaker of the House I am here today to present testimony in support of **LD 1970, An Act to Enact the Maine Indian Child Welfare Act.**

I want to thank and commend Senator Bailey for introducing this important bill and Tribal Representative Dana for being the lead co-sponsor I am proud to be one of 79 members of the Maine Legislature who have joined as co-sponsors in a truly bipartisan fashion That level of support speaks loudly to just how important LD 1970 is and why it needs to become law

I ask you to bear with me as I review some history both nationally and in Maine regarding the treatment or more accurately mistreatment of Indian children in our legal systems

In 1978, the United States Congress worked closely with American Indian and Alaska Native elected officials, child welfare experts and families whose children had been unnecessarily removed from their homes to pass the Indian Child Welfare Act of 1978 (Federal ICWA) Federal ICWA was designed to protect Indian children and families from biased child welfare practices and well-documented disregard for their families and culture At that time, according to the National Indian Child Welfare Association, nationwide 25% to 35% of all Indigenous children were removed from their homes by state child welfare and private adoption agencies As many as 85% of those children were placed outside of their families and communities, even when fit and willing relatives were available

Federal ICWA created a higher standard for removing Native children from their homes to help Native people maintain critical cultural and linguistic ties to kin and tribe ICWA was enacted in part to stem the displacement of Native children from their communities, in the recognition that every child's separation from her culture engenders further loss for her people

In 2013, the governor of Maine and five tribal chiefs signed as equals to authorize the Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission (Commission) to investigate whether the removal of Wabanaki children from their communities continued to be disproportionate to non-Native children in the 35 years after federal ICWA was enacted into law and to make recommendations that "promote individual, relational, systemic and cultural reconciliation " The Commission was the first in the United States in which multiple parties came together by agreement to pursue answers to difficult questions, and it was one of the first in the world to examine issues of Native child welfare

The Commission learned a great deal in the 27 months between its creation and the release of its report and findings on June 14, 2015 Report of the Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission | Expanded Version (d3n8a8pro7vhmx cloudfront net) Among other things, it learned that Wabanaki children in Maine had entered foster care on average at 5 1 times the rate of non-Native children during the 13 years prior to the issuance of its report Those numbers were staggering given that federal ICWA had already been the law of the land for 22 years before the commencement of the 13 year period that the Commission studied Those numbers conclusively demonstrated that even after federal ICWA's enactment, a disproportionately higher rate of Wabanaki children in Maine were taken from their tribal communities and placed into foster care than non-Native children

This continued a sordid history in Maine that was even bleaker before federal ICWA was enacted In Aroostook County in 1972, the rate of removal for Wabanaki children was 62 4 times higher than the statewide rate for non-Native children The rates for Maine were the second highest in the nation at that time In addition, federal reviews in 2006 and 2009 indicated that sometimes up to half of all children coming into foster care did not even have their Native heritage verified The Commission concluded that Maine still needed to make strides to ensure full compliance with federal ICWA

Unfortunately, federal ICWA is under legal assault The states of Texas, Indiana, and Louisiana, along with individual plaintiffs are asking the United States Supreme Court to declare that federal ICWA is unconstitutional *Haaland v Brackeen* along with three other cases raising similar claims are expected to be decided by the Supreme Court sometime this June While Maine is one of 26 states that have filed *friends of the court* briefs supporting federal ICWA, as have over 500 tribes, hundreds of supporters and at least 87 members of Congress, including Senators Collins and King, and Representative Pingree, there is no way to predict the outcome of that litigation

That is precisely why LD 1970 is before you today and why this Committee must act favorably and create a Maine Indian Child Welfare Act (Maine ICWA) The purpose of the Maine ICWA is recognition by the State that Indian tribes have a continuing and compelling governmental interest in the welfare of an Indian child whether or not the child is in the physical or legal custody of an Indian parent, an Indian custodian or an Indian extended family member at the commencement of an Indian child custody proceeding or the Indian child has resided or is domiciled on an Indian reservation LD 1970 would codify the State's commitment to protecting the essential tribal relations and best interests of an Indian child by promoting practices in accordance with all laws designed to prevent the Indian child's voluntary or involuntary out-of-home placement and, whenever such placement is necessary or ordered, by placing the Indian child, whenever possible, in a placement that reflects the unique values of the child's tribal culture and that is best able to assist the child in establishing, developing and maintaining a political, cultural and social relationship with the Indian child's tribe and tribal community It would put into law the policy of the State to cooperate fully with Indian tribes and tribal members and citizens in this State and elsewhere to ensure that the intent and provisions of the Maine ICWA are enforced

Federal ICWA has been labeled the "gold standard" in child welfare policy and practice by a coalition of 18 national child advocacy organizations (Source "The Indian Child Welfare Act Fact Sheet" prepared by the National Indian Child Welfare Association) Maine ICWA embodies the protections and legal procedures found in federal ICWA that are designed to stop the unnecessary removal of Indian children from their families and tribal communities We have seen the damage caused by biased child welfare practices that disregard those Indian children, Indian families, and tribal communities We cannot go backwards to that shameful past that injured so many

By enacting LD 1970, Maine would join 12 other states that have acted to codify federal ICWA protections on the state level This would protect Wabanaki children, families, culture, and sovereignty if the United States Supreme Court decides to weaken or destroy the protections found in federal ICWA, protections that have been working well for almost 45 years Please vote ought to pass on LD 1970 It is the right thing for Maine to do

I thank you very much for your time and attention today While I am happy to answer any questions you might have, you will be hearing from others, including attorneys, who are far more familiar with the legal intricacies of the bill Your technical questions would be better directed to them